

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING September 20, 2023

1. **Action Item 1. Roll Call, Call to Order, Welcome, Introductions.** President Mariah Smith, O.D. opened the live meeting at 6:33 p.m. Board members, Jeffrey Austin, O.D., Stephanie Lee, O.D., and Drew Johnson were present. Also attending were Executive Director Adam Schneider, Nancy Padilla, Licensing Specialist and Deputy Attorney General Rosalie Bordelove, Esq.
2. **Public call in instruction.** Pursuant to AB219, public telephonic access number 669-444-9171 was read into the record.
3. **Item 2. Public Comment.**
 - A. Dr. Daniel Rowan, OD requested clarification regarding custodial ownership of records in statutes. Dr. Rowan questioned if a professional entity or larger corporation could claim ownership of patient medical records. Dr. Rowan was directed to put concerns into a letter to the Executive Director and can be added to agenda for the next meeting for board discussion if needed.
 - B. Dr. Kenneth Kopolow, OD requested receipt of a complaint that he submitted to the Board for a licensee 5-6 weeks ago. Executive Director Schneider confirmed he had not received the complaint and instructed him to resubmit the complaint to his email directly.
4. **Action Item 3. Election of Board President, Vice President, and Financial Officer re FY2023-24.** Mariah Smith, OD nominated Drew Johnson as Financial Officer. Drew Johnson accepted. No other nominations. All board members in favor. None opposed. Mariah Smith, OD nominated Jeffrey Austin, OD as Vice President. Jeffrey Austin, OD accepted. No other nominations. All board members in favor. None opposed. Drew Johnson nominated Mariah Smith, OD as Board President. No other nominations. All board members in favor. None opposed.
5. **Action Item 4. Consideration of draft and approval of Board Meeting Minutes of June 22, 2023, Meeting.** Member Johnson moved for approval of the Minutes as presented. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously.

6. **Action Item 5. Executive Director update on Board banking, and possible Motion for Drs. Young and Austin removed from banking access and replaced with Dr. Smith, Public Member Johnson, and Executive Director Schneider.** Executive Director Schneider explains two tax IDs previously used by the Board have been streamlined into one tax ID and one bank account at Nevada State Bank. The Board will still maintain an account at Heritage Bank to avoid exceeding FDIC insured amounts. Mariah Smith, OD moves to remove Drs. Young and Austin from banking access and replace with Dr. Smith, Public Member Johnson, and Executive Director Schneider. Stephanie Lee, OD seconds the motion. All Board members in favor, none opposed. Motion carries.
7. **Action Item 6. NRS/NAC clarification re OPAC certification.** Executive Director Schneider asks for clarification among the Board regarding OPAC recertification. In the event that a Nevada licensee with OPAC certification allows their license to lapse and later wishes to reapply, do they need to redo their 40 hours of training with an ophthalmologist. Board member Jeffrey Austin, OD motions that the 40 hours of training is valid for the life of the optometrist and does not need to be done again for re-licensure. Also, if 40 hours of training was completed at another state, then for a first time Nevada license application the out of state training is accepted in Nevada and they do not need to complete any additional OPAC training. All Board members in favor, none opposed. Motion carries. Mariah Smith, OD asks to revisit this at the next legislative session to possibly make an OPAC by endorsement similar to the Glaucoma by endorsement form for a simpler, more streamlined application process. Executive Director Schneider requests motion that pursuant to 636.260, the Board is exercising its authority to find good cause in order for the OPAC certification to be valid for the life of the licensee. Mariah Smith, OD motions to add OPAC certification under NRS 636.260 at the next legislative session. Jeffrey Austin, OD seconds the motion. All board members in favor. None opposed. Motion carries.
8. **Action Item 7. NRS/NAC clarification re Drug Enforcement Administration CE requirement.** Executive Director Schneider explains the new federal, one time, 8 hour continuing education (CE) requirement for DEA license holders. Membership has reached out asking if the CE requirement can carry over into the NSBO CE requirement, beyond the 2 hours required for licensure. Jeffrey Austin, OD motions because of the short notice to the membership from the DEA to allow the extra hours to all NSBO applicants' OPAC CE requirements regardless of holding a DEA license or not for the cycle ending in February 2024. Stephanie Lee, OD clarifies that the federal DEA-approved CE courses are not necessarily COPE approved and the NSBO will be allowing courses on the DEA-approved course list to count towards the NSBO general CE/OPAC renewal requirement. Stephanie Lee, OD motions that the Board accepts 8 hours of CE on the DEA approved CE course list for licensure and OPAC. Mariah Smith, OD amends the motion to any amount of hours, not limited to 8. Public member Drew Johnson seconds the motion. All Board members in favor, none opposed. Motion carries.
9. **Action Item 8. NRS/NAC clarification re scope of practice for suture removal.** Executive Director Schneider asks for clarification if optometrists can remove skin sutures under 636.025 and discussion on what constitutes a foreign object, and the statutes being

silent on suture removal but prohibiting suture insertion. Jeffrey Austin, OD explains according to statute written closely with ophthalmology, optometrists are allowed to remove sutures. Mariah Smith, OD motions that optometrists can remove sutures. Stephanie Lee, OD seconds the motion. Motion passed unanimously.

10. **Action Item 9. NRS/NAC clarification re COAs' provision of healthcare at optometric offices.** Executive Director Schneider requests clarification on what types of care are allowed or not allowed by a certified ophthalmologic assistant (COA) at an optometrist's office without the optometrist's supervision. More specifically, can a COA remove sutures at an optometry office without supervision. Jeffrey Austin, OD discusses if an OMD is renting space as an independent contractor in an OD office then the COA is employed by the OMD and can follow the instruction of the OMD as directed, whatever that direction may be. Stephanie Lee, OD adds the OD must have a written lease with the OMD defining a clear definition of space. Jeffrey Austin, OD motions that as long as an OMD is working as an independent contractor, when leasing space within an OD office then the COA can perform procedures as directed by the OMD. Stephanie Lee, OD seconds the motion. Motion passed unanimously.
11. **Action Item 10. NRS/NAC clarification re scope of practice and optometric devices.** Executive Director Schneider requests clarification on whether an optometrist can provide electro-epilation/electrolysis of lashes for trichiasis if an ophthalmologist is immediately and physically available for consultation, and similarly for injections for chalazion excision. Board member Jeffrey Austin, OD clarifies that electrolysis is not allowed under any diagnosis for optometrists as it burns tissue. Similarly for chalazion, Dr. Austin clarifies optometrists can only apply topical diagnostics and therapeutics, and cannot inject anything into the eye or tissue. President Mariah Smith requests these topics be added to the next legislative session for possible expansion of scope in regards to optometric devices and injectables. Dr. Jeffrey Austin motions that electro-epilation is disqualified for use by optometrists whether or not a surgeon present, and optometrists cannot inject any substance into the eye or tissue. Mariah Smith, OD seconds the motion. Motion passes unanimously.
12. **Action Item 11. Board policy for licensee duties upon retirement and/or unexpected incapacitation.** Executive Director Schneider drafted a list of procedures for retiring optometrists and family members of unexpectedly incapacitated optometrists complying with NRS 629 to ensure patients are able to get records and continuity of care within reasonable time periods. Mariah Smith, OD motions to add the list to the Board website policy section as guidance. Jeffrey Austin, OD seconds the motion. Motion passes unanimously.

13. **Action Item 12. Board policy for licensee surname change, e.g., reversion to maiden name or change to spouse's surname.** Executive Director Schneider asks the Board if they want some sort of policy for a name change, and if so do they want to implement an administrative fee for the Board changing the name internally. Mariah Smith, OD recalls previous statues on this topic and will investigate further (subsequently identified as NAC 636.210(1)(a) and NAC 636.215(1)). Dr. Jeffrey Austin motions to keep the name change fee at \$100.00 (\$75.00 for duplicate license + \$25.00 for a duplicate location card), including OPAC and glaucoma certifications. Stephanie Lee, OD seconds the motion. Motion passed unanimously. Dr. Smith suggested revisiting this in an action item at a subsequent board meeting about the Board's position for licensees not practicing under their legal name, and how to locate such licensees when there is a problem. Executive Director Schneider mentions the fee can be added into the fee schedule section of the NACs for the upcoming session.

14. **Action Item 13. 12/2022 online complaint for determination of jurisdiction.** Executive Director Schneider directs the Board to review the redacted complaint in the meeting materials provided and asks if the complaint is under the Board's jurisdiction. Jeffrey Austin, OD would like clarification if the contact lens fitting was actually performed to rule out any possible fraudulent billing. Dr. Smith motions for Executive Director Schneider to investigate further if the contact lens fitting was actually performed, and if it wasn't, was the fitting billed in error, or has fraudulent billing occurred. Stephanie Lee, O.D. seconded the motion. Motion passed unanimously.

15. **Action Item 14. Executive Director updates.**
 - A. **Status of termination of Thentia purported contract.** Executive Director Schneider explains Thentia's CEO provided written acknowledgement that they are at fault for not delivering a product in a timely manner and are looking into a refund of any monies that have been paid;
 - B. **Forum for NAC 636 revisions set for 10/26/2023.** Mariah Smith, OD suggests providing membership with the approved bill and going through item by item asking for feedback if any of the items need clarification. The meeting will be led by Dr. Smith;
 - C. **Start of licensee renewals for 2024-2026 on Saturday 10/28/2023.** Nancy Padilla reports the renewal application and CE Summary Form has been updated on the website. New location cards have been designed with updated Executive Director information. An email blast and website notification will be sent to membership that renewals are open;
 - D. **NRS 333 Purchasing Division- Certified Contract Manager (NVCCM) Initial Certificate Course completion.** Course was taken by Executive Director Schneider as suggested by Deputy Attorney General Bordelove, Esq. to make sure the Board is compliant under NRS 333 with respect to contracting and their policies.

16. **Action Item 15. Consideration of Agency Budget with review for expenditures for physical office closure and transition to dual remote office locations.** Executive Director Schneider asks do we have to keep a physical office pursuant to NRS 281.110. Deputy Attorney General Bordelove, Esq. will do more research and see what some of the other Boards are doing and report back if a smaller Board like NSBO needs a physical office or rather needs to be available by phone 40 hours a week and a place to meet membership or the public if needed by appointment only.
17. **Item 16. Public Comment.** No public comment was offered.
18. **Action Item 17. Adjournment.** Jeff Austin, O.D. moved to adjourn the meeting. Mariah Smith, O.D. seconded the motion. Motion passed. The meeting adjourned at 7:56 p.m.

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FY 2023 Regular meeting schedule

Thurs. October 26, 2023 – 6:30 pm by Zoom
Tues. November 28, 2023 – 6:30 pm by Zoom

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These minutes were considered and approved by majority vote of the Nevada State Board of Optometry at its meeting on November 28, 2023.



Adam Schneider, Executive Director